

**Town and Country Planning Act 1990**  
**Appeal by Company Lidl UK GmbH – Ref: 13/04160/FULL1**  
**Site at The Porcupine PH, 24 Mottingham Road, London, SE9 4QW**

**Proof of evidence of Bob Neill**  
**Member of Parliament for Bromley and Chislehurst**

**Introduction**

1. As Member of Parliament for Bromley and Chislehurst I have raised my concerns, and indeed that of the overwhelming majority of Mottingham residents, on this inappropriate and deeply flawed application for a deep discount supermarket from the start. I have been an MP since June 2006, and feel it is worth stressing that this is the first time I have ever submitted a proof of evidence since my election, such is the strength of feeling regarding this case.
2. Between May 2010 and September 2012, I served as Parliamentary Under Secretary of State for Communities and Local Government, with Ministerial responsibility for, amongst other things, planning and community pubs. I am, therefore, well acquainted with all relevant planning law, as well as the grounds on which this appeal has been submitted against the London Borough of Bromley's refusal of planning permission on 5 March 2014.
3. Whilst I note that some common ground has been found between the appellant and the Council, I remain unconvinced that the perceived benefits of the proposed development would outweigh the loss of what is, for many residents, a long-established and much loved social hub and community asset.
4. The following submission sets out the substantive flaws in the appellant's case.

**Policy Considerations**

5. Planning law requires that applications for planning permission must be determined in accordance with the development plan<sup>1</sup>, unless material considerations indicate otherwise. A policy presumption in favour of sustainable development can be rebutted where proposals are not in line with local plan policies, or where material evidence demonstrates it would cause harm to public interest.
6. UDP Policy S6 demands that retail developments be appropriate to the size of the centre. Pre-application advice given to the applicant specifically requested evidence to demonstrate compliance with this policy. It is disappointing that no evidence was submitted as part of the formal application; many constituents expressed concern about the greater scale of this building and the impact a large discount store would have on nearby independent retailers.
7. The DAS failed to present an adequate description of the surroundings and context in which this development would be sited. In particular, there was no reference to the War Memorial

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<sup>1</sup> In this case LB Bromley's Unitary Development Plan (UDP) and the London Plan.

or the relationship the store would have to the adjacent (locally listed) former Library. I consider that the proposed scale and massing are out of keeping with the character of Mottingham Village and unduly conspicuous within the street scene of Mottingham Road. Little regard was given to the impact this development would have on neighbouring residential properties.

8. The standing Public House has been designated an Asset of Community Value, and this in itself should be a material consideration to which the Inspector should have regard. The loss of a valued community asset is also contrary to UDP Policy C1, the NPPF (Para 70, 126, 152), and London Plan policy 3.16. It is disappointing that the applicant ignored officers' advice to provide evidence to the Committee of compliance with local plan policies.
9. The DAS confirmed that Lidl's business model centres on cost minimisation. This is reflected in the low number of potential employees (only 7 permanent positions) at the proposed unit. As such, the scheme's potential to "provide employment opportunities" was grossly overstated. Indeed, the potential loss of livelihood to local retail units was likely to exceed the numbers Lidl intended to employ.

### **Highway Considerations**

10. There is no question that the proposed development would have resulted in a material increase in the volume and character of traffic entering and leaving the site.
11. As suggested in the pre-application advice, and again at the Committee debate, I believe the proposed 35 parking spaces to be insufficient. The supporting evidence provided by the applicant, as well as subsequent study data, did not provide adequate justification as to why this application can depart from recommended parking provision standards (UDP Policy T3).
12. On the assumption that 7 employees would be on site at any one time, and given the relative deficiency of public transport in this area, a further 4 parking spaces (minimum) are likely to be taken up by staff. In effect, there would be periods in the day when only 24 general-use spaces will be free.
13. The applicant acknowledged that peak demand on a Saturday would likely exceed proposed parking supply, with an estimated 7 cars waiting for a space at any one time. I question the assumption that these cars could be accommodated on site, with sufficient space to manoeuvre. The end result will be spill-out onto the main highway or customers finding nearby on-street parking which is, as you are aware, significantly restricted. This is an unacceptable risk that will impact local residents and businesses.
14. It is disappointing that the applicant did not submit a full appraisal of car park manoeuvrability, including vehicular turning circles. Amongst other things, this would have given a clear indication of whether sufficient allowance had been made for front and rear overhang of commercial HGVs and larger family cars.
15. Para 3.17 of the original SCP Transport Assessment should have been discounted in its entirety. It is not appropriate to defend the provision of parking below maximum standards on the speculative and unquantified assumption that users will use alternative modes of transport.
16. I find it strange that the Transport Assessment referenced recent appeal decisions against LB Bromley on the grounds of parking provision disputes. These related to different uses, for example a church car park, and cannot be applied to this case.

17. Due to the proposed decision to close the northern access point (Road Safety Audit Response Form), as vehicles attempt to enter and exit the site using a single access point, there remains a strong possibility of tailbacks on the approaches to and from the roundabout.
18. It is concerning that the main Transport Assessment was undertaken outside of the main school term period. This would have had a significant impact on the accuracy of the results and the weight that can be afforded to these data.
19. With this in mind, I believe the appellant's assertion in para 5.8 of its Statement of Case can be discounted; no reliable and wholly representative assessment has been made to suggest unequivocally there is no interaction between Mottingham Road and West Park roundabout junction with regards to queuing.
20. Para 2.16 of the Transport Assessment was particularly alarming; it was nonsensical to predict possible future incident rates by simply referencing the historic safety record around this site. Such reasoning is purely speculative and takes no account of the significant traffic flow alterations that will stem from this development.
21. Para 2.24 of the Transport Assessment also carried little weight. Most people, for safety and convenience reasons, will choose not to cycle to this store and undertake a return journey burdened with shopping. It was also unclear how cyclists would be expected to access one of the 8 lock-up points and embark/disembark safely.
22. Paragraph 3.9 of the Transport Assessment was very concerning. Mottingham Road can get heavily congested and this would make it incredibly difficult for an articulated HGV to enter and exit the site. The applicant's supporting evidence even acknowledged that HGVs would have to "use the full width of the carriageway to perform some of the movements".
23. Beyond the precedents set by MfS2, unnecessary danger should be avoided for new sites such as this. I therefore find the appellant's suggestion that "it may be better to accept larger vehicles occasionally cross into the opposing lane" (para 5.5 – Statement of Case) irresponsibly dismissive owing to the busy nature of Mottingham Road.
24. Whilst I welcome that the appellant has now specified further its intentions to propose a planning condition to limit servicing hours of the store, I find the designated delivery slots highly inappropriate. Although these will avoid peak trading hours, they both fall within peak traffic times. The Inspector should be aware of significant local concern about the morning servicing hours given that there are two schools very near to the site.
25. The DAS stated that parking bays 1 & 2 may need to be coned off to permit daytime deliveries (Para 3). However, this conflicted with para 3.10 of the Transport Assessment, which stated that 'the largest articulated delivery lorry will also require the vehicle to encroach onto 3 of the customer car parking spaces'. Such a basic factual error was deeply alarming.
26. For customers parked in the rear of the site (parking spaces 1-12), they must walk c.70 metres to reach the store entrance, navigating through two directional traffic flows, plus reversing cars from spaces 17-27. This is a significant safety risk for pedestrians. There is also no indication of trolley storage provision for customers using the parking spaces to the rear of the site. There is a very real possibility, therefore, that trolleys will be 'dumped' and left scattered around the site. This would present even further obstacles to an already over-crowded car park.

### **Design and Appearance**

27. Bromley Council's General Design Principles state that proposed developments must respect the character and quality of the surrounding area.
28. The proposed roof design is welcomed and, notwithstanding concerns about the scale and positioning of this building, it would create visual interest and relate well with the character of the area. The use of 'Alucobond' grey fascias and PPC aluminium gutters and downpiping (Part 4) is, however, disappointing. This is standard build material for Lidl stores, and demonstrates limited concern for creating a sensitive development in keeping with the area's architectural style. Blue-coated aluminium frames and entrance screens are standard Lidl marketing colours, but look unattractive and do not fit with the wider street-scape of Mottingham Village and existing retail frontages.
29. It is not acceptable for Lidl to propose the use of large and unsightly posters to break up the mass of the eastern elevation. I remain of the view that cheap advertising space is no substitute for high-quality architectural design and brickwork with interest.
30. The proposed active frontage would be welcome, but additional natural light in-store would be marginal due to a Northern-facing façade.
31. It is disappointing that so little space had been set aside on the site for landscaping, and I am surprised that the applicant ignored officers' advice to retain the two TPO trees on-site. This was a tacit admission that the applicant sought to squeeze as much floorspace as possible into the site, and had little willingness to compromise on landscaping in an effort to maintain the maximum size of store possible.
32. Indeed, the appellant's continued insistence that the two trees are not of TPO status is surprising as this was listed as one of the five reasons for refusal on 5 March.

### **Impact on Neighbouring Residential Amenity**

33. The pre-application advice raised clear concerns regarding "the close proximity of vehicle movements to the rear gardens of properties in Devonshire Road", and recommended that an acoustic assessment of background and expected noise levels be submitted as part of the application. No such report was submitted with the application, so it was hard to make an objective assessment of the possible disturbance to residents.
34. Whilst I welcome the appellant's increased consideration for security concerns, and have made note of plans to incorporate a two-leaf gate and retractable bollards, as well as installing CCTV cameras and security lighting, I find it worrying that security appears to have been an after-thought for the appellant throughout the entire design process.
35. I remain unconvinced that these security measures will provide a sufficient level of deterrence and delay against forced entry/intrusion. Not only will security lighting provide potential nuisance to local residents, it is also wholly inadequate to expect these same residents to essentially police the site themselves, as suggested in para 5.20 of the Statement of Case: "providing opportunities for casual surveillance from the adjacent residential properties backing on to the site".

### **Loss of a community facility**

36. Whilst Policy C1 of the UDP fails to make specific reference to commercial enterprises, it does “seek to promote the provision of developments that would meet the current and future health, education, faith, social or other needs” of the community. The strong negative reaction this application has generated in the local community demonstrates clearly that the Porcupine site falls into the social facet of this policy.
37. Indeed, for many years the site has been used to stage an annual remembrance service owing to its close proximity to the war memorial on West Park roundabout, and from 2002 onwards the Porcupine served free refreshments on its forecourt for attendees. This is a well-attended and highly thought of event in the community, and with Lidl operating on Sundays, there is considerable concern amongst residents that this local commemoration could not continue if the proposed development were to go ahead.
38. I believe it is worth noting that there has been a public house on the Porcupine site continuously since 1688. In light of this, and with reference to para 5.33 of the Statement of Case, I would suggest that a new pub stands as a truer “fallback” for this site.
39. Moreover, Policy C1 of the UDP states: “While facilities can become run down or poorly maintained, this does not necessarily demonstrate a lack of need.” Enterprise Inns’ business model of asset sell-offs is well documented and has received notoriety in the pub trade press.<sup>2</sup> I therefore believe it is misleading to judge the viability of running a pub on this site on this basis, as the appellant does in para 5.35 of the Statement of Case.
40. Local councillors and the Mottingham Residents’ Association date this shift in the maintenance of the pub to 2010. Before this date, the Porcupine functioned as a profitable and well-managed public house, and was not only used by the average pub-goer, but also as a much loved social hub by local traders and school parents as part of the daily school-run. Just as a few examples, the Porcupine was a major sponsor of the biennial Mottingham Festival (hosting Morris dancers, craft stalls etc.), was the meeting place of the Safer Neighborhood Team, and held regular and very popular quiz nights.
41. It is also worth noting that, at the present time, there are very few, if any, easily accessible meeting places in the vicinity. I would highlight that The Prince of Wales is a sports bar, and that the Royal Tavern offers adult entertainment on some evenings. The appellant even concedes in para 5.37 of its Statement of Case that these two alternative public houses are not located within the designated retail frontage of Mottingham Local Centre. Other alternative spaces, such as the use of local church halls, is restricted to special events for which fees are payable.
42. Indeed, without a public house on this site, central Mottingham would effectively be without a night time economy, other than a very limited number of take-away restaurants. After 15:00 every day, the nearby workman’s café and deli both close, and there is nowhere in the area to buy simple refreshments.
43. It is widely believed amongst residents that the pub was deliberately run down by subsequent tenants to justify its purchase by Lidl UK.

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<sup>2</sup> See publications such as *The Morning Advertiser* for examples. Furthermore the Business and Enterprise Select Committee looked specifically at this issue in a report it published in May 2009: <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmberr/26/2602.htm>

## **Publicity**

44. It is not acceptable for the applicant to host a public exhibition and simply ignore the concerns expressed by the overwhelming majority of attendees. It is inconsistent to acknowledge the “predominantly negative” feedback from this event and simultaneously proclaim a “groundswell of local support” (Statement of Community Involvement; 2013; 4.2). This is tokenistic consultation and makes a mockery of pre-application engagement. Over 350 residents turned out for this one meeting which is a significant figure for a proposal of this scale.
45. Indeed, after Lidl’s community consultation in the Methodist Church Hall, the Mottingham Residents’ Association (MRA) conducted an exit poll. 256 residents were against the proposal, 22 were in favour, and 11 were recorded as undecided. As I understand it, after consulting 11,000 homes by letter in summer 2013, Lidl only received 187 positive responses to their online petition, only half of whom can be confirmed as Mottingham residents.<sup>3</sup>
46. From the very start, Lidl have treated the local community with disdain. Their strategy has, in many instances, been nothing short of underhand. The sudden closure of the Porcupine, coupled with Lidl’s swift notification of its intention to demolish the site, is evidence of this. Only a number of highly popular petitions, as well as interventions by myself with senior figures at Lidl, prevented such action being taken.
47. It is little surprise this scheme evoked such a hostile response from residents and this, in part, prompted my Parliamentary Debate of 21<sup>st</sup> May 2013 (see Appendix I). I trust the Inspector will give careful thought to my comments on the record.

## **Conclusions**

48. In conclusion, there remain substantial grounds upon which this application should be refused.
49. The applicant’s Statement of Case displays a continued lack of consideration for local residents, and although the appellant has had multiple opportunities to do so, it continues to make very little effort to address genuine local concern.
50. The benefits of a deep discount supermarket on this site are negligible. Not only will the proposed Lidl store put substantial and irreparable pressure on a number of local businesses, but very few employment opportunities will be generated in turn.
51. The overwhelming majority of Mottingham residents are firmly against this application, and the popular support campaigns such as ‘Save the Porky’ have enjoyed is a strong indicator of this.
52. As you know, LB Bromley is not required to determine applications solely on the basis of information provided by the applicant. In this particular case, beyond the fact that the site is simply too small for the proposed scheme, the forfeiture of a real asset of community value is at risk. Many Mottingham residents have a deep and historic affinity with the Porcupine, and I fear that lengthy ramifications could be felt throughout the community if this proposal were to prove successful.

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<sup>3</sup> <http://www.gopetition.com/petitions/support-lidl-in-mottingham/signatures.html>

53. The Porcupine stands as a much-loved, and much-needed, social hub for local residents, and its presence will be sorely missed if this scheme were to go ahead.

**Bob Neill MP**  
**01.09.2014**

## Appendix I: Parliamentary Debate – 21 May 2013

### **Planning (Mottingham)**

*Motion made, and Question proposed, That this House do now adjourn.—(Mr Syms.)*

8.50 pm

**Robert Neill (Bromley and Chislehurst) (Con):** It is a pleasure to raise this issue in the Chamber, and I am delighted to see several hon. Members still here as we approach closing time—an appropriate metaphor, perhaps, given the subject of this debate.

**Greg Mulholland (Leeds North West) (LD):** Not for the Porcupine.

**Robert Neill:** No, I hope not for the Porcupine.

I want briefly to set out what seems to be the particularly worrying pattern of behaviour that the proposal to demolish the Porcupine public house in Mottingham in my constituency highlights. It is obviously of great concern to residents of Mottingham, which, it is worth saying, is not an amorphous part of London suburbia, but a genuine village with a real sense of identity, and the Porcupine pub is a central part of that village community. It is also worrying because the behaviour of the two substantial companies involved has potential impacts beyond this case.

Perhaps I can put that into some context. There has been an inn on the site of the Porcupine public house since 1688. It is not, I accept, locally or statutorily listed, but it is steeped in history. There has always been a pub there in the middle of the village, and it is virtually the one remaining bit of community space left in the village, so it is of real significance to the people of the Mottingham area. It has a long local history. I am told that Tom Cribb, the 19th century world bare-knuckle boxing champion, trained in the Porcupine inn and that it has been called that since the days when a spiked machine was used to crush oats and barley in alehouses, so it has a long heritage and, as I say, is dearly loved by people in the Mottingham area. We have seen, however, a shabby and underhand means of closing this public house against the community's wishes.

I am delighted to see the Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Great Yarmouth (Brandon Lewis) here to respond to the debate and I want to thank him personally for the trouble that he took to come down to Mottingham, visit the site and meet some of its residents—more of that in a moment. First, however, I want to thank some other people, because the campaign to save the Porcupine public house has seen many people doing a lot of hard work. It is worth mentioning Liz Keable and all the other committee officers of the Mottingham residents association, who have worked very hard; Emily Bailey, who started an online petition that has gathered more than 1,600 signatures; the local councillors, including my Conservative colleagues Charles Rideout and Roger Charsley, who represent the Mottingham ward of the London borough of Bromley, and Councillor John Hills, who represents the adjoining ward in the neighbouring London borough of Greenwich, just the other side of the road from the public house; hundreds of residents who have written in and e-mailed to support the campaign; and the 250-plus people who turned out when the Minister came to visit last week. I also wish to say



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special thank you to David Bingley, who started the campaign. Sadly, his ongoing hospital treatment means that he cannot be here to watch the debate from the Gallery, but I know he will be watching from his hospital bed, and I am sure that you will forgive me, Mr Speaker, if I say that we thank him for his efforts and wish him a speedy recovery.

That is the history of this public house and the strength of feeling surrounding it. The Porcupine was knocked down once before, in 1922, and on that occasion the brewery provided a temporary pub for people to use while it was rebuilt, but I am afraid that a very different attitude has been adopted now. In essence, the owner of the Porcupine pub, Enterprise Inns, has in my judgment deliberately let the pub run down and then sought to dispose of it for development. I am afraid Enterprise Inns has a bad track record in that regard. It is becoming frankly notorious for such behaviour. Its four annual reports show an alarming decline in the total number of pubs it operates, from 7,399 in September 2009 down to 5,902 in September 2012. Enterprise Inns seems to have a deliberate policy of running down its estate. It is quite clear from its annual report that, having disposed of more than 400 pubs in the last year, Enterprise Inns is disposing of assets to pay down debt. It is a company that, frankly, has not had good trading results. To my mind, it seems to be behaving more like a property company than a brewing company.

What Enterprise Inns has done in this case adds insult to injury. Not only did it dispose of the site, but it did so without giving any notice to the population. The site was never advertised. There was no sign that this public house was going to be closed. It closed literally overnight, having been sold through a commercial deal to Lidl supermarket, with no notice given to anyone. Lidl UK now proposes to demolish the public house and erect a non-descript supermarket on the site. It is reprehensible that this pattern of conduct by Enterprise Inns seems to be designed to circumvent the Government's work to give greater protection to public houses. The Government have taken important steps, by creating the ability to list places such as the Porcupine as assets of community value and by giving greater protections in the national planning policy framework.

**Clive Efford (Eltham) (Lab):** I congratulate the hon. Gentleman on the campaign that he is running with the local community. As he knows, the Porcupine in Mottingham village is just across the road from my constituency, so my constituents are concerned, too. He has the full support of those who are trying to save the Dutch House pub in my constituency. This is very much about a local community coming together to save both community assets. Does he agree that this case is a test for the NPPF? We should be listening to local people, as against huge businesses such as McDonald's, Lidl and Enterprise Inns.

**Robert Neill:** I am grateful to hon. Gentleman for his intervention. I welcome his support for the campaign, and I agree.

Enterprise Inns has a debt of £296 million and is running down its estate to pay it off. It does not seem to be interested in running its pubs, as they can be run, as going concerns. The community in Mottingham was denied the opportunity to make an application to have

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the Porcupine listed as an asset of community value in advance, because it was given no notice. By the time the pub closed, it had already changed hands and Lidl had already moved in and boarded it up. Ironically, it did so with a hoarding that was beyond the size permitted under the planning regulations—a breach of development control, which says something about Lidl’s attitude. When my hon. Friend the Minister responds, I should be grateful if he considered what more we might do about the behaviour of Enterprise Inns in seeking to circumvent the legislation that the House put in place to protect such assets.

**Greg Mulholland:** The all-party save the pub group is entirely behind my hon. Friend’s community campaign and will offer him any support we can. The simple answer—I hope we will hear this from the Minister—is twofold. First, as my hon. Friend will know, the great news is that the Department for Business, Innovation and Skills is consulting on finally dealing with the property scam that is the pubco model, which includes Enterprise Inns. I hope that we will hear later this year that that will be dealt with. Secondly, I hope that we will start to get it through to the community pubs Minister—my hon. Friend and I had debates when he used to be the community pubs Minister—that although the provisions in the Localism Act 2011 are positive, we cannot accept a planning framework that allows such behaviour. We must have a change, so that pubs cannot become supermarkets behind communities’ backs and without any consultation with those communities. That cannot be right.

**Mr Speaker:** Order. The hon. Gentleman would almost have had time to consume a pint in the course of his intervention.

**Robert Neill:** Thank you, Mr Speaker. I understand my hon. Friend’s point, and I am grateful to him for his intervention. You will know of the importance that all communities attach to their local public house, Mr Speaker, and this behaviour is particularly reprehensible. It has denied people the opportunity to step in, unlike what has happened at other places nearby, such as the Baring Hall public house near Grove Park station, where notice was given and the community was able to get the asset listed. That opportunity was denied in the case of the Porcupine as a result of the underhand behaviour of Enterprise Inns.

The situation has been made worse by the behaviour of Lidl. It is becoming apparent that the company’s business model is one of acquiring public house sites and turning them into supermarkets in a secretive and predatory fashion—*[Interruption.]* My hon. Friend the Member for Leeds North West (Greg Mulholland) says that this is about collusion, and I have to say that a lot of people in Mottingham would agree.

As I have said, the situation has been made worse by Lidl’s behaviour. Representatives of the company came to a public meeting organised by the Mottingham residents association and, to put it charitably, gave misleading information about the status of the planning application. They claimed that they already had permission to demolish the public house, when in fact they had not even made an application. Since then, although they claim that they wish to consult the community, they have done no more than board up the public house. They want to

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demolish it so that, in effect, the pass will have been sold and it will be impossible to rebuild a pub on the site, but I am pleased to say that Bromley council will have to consider a section 31 application. I am sure that it will deal with such an application in an appropriate fashion.

My hon. Friend the Minister cannot prejudge planning cases, but I would simply observe that I believe that there are very strong planning grounds for deciding that this is not an appropriate place for a supermarket.

Lidl's poor behaviour did not stop there, however. Until I secured this debate—as well as earning a rebuke from you, Mr Speaker, for making an intervention on the matter at business questions that was perhaps a little less crisp than I try to be—Lidl had refused to engage at senior level with me or any other elected representative. Lidl is a privately owned, German-based company, and it is now buying up pubs around London and turning them into supermarkets. Ironically, there is a Lidl just 10 minutes away from this site, in Eltham, as well as branches of Marks & Spencer, the Co-op and Sainsbury's within easy reach of it.

I find it extraordinary that, having misled residents over the status of the application, Lidl took no steps to correct that. It put in an application, then forgot to pay the fee for about seven days, which says something about the company. When I sought a meeting with a Lidl board director, the company refused to give my office the names of its directors. We had to go to Companies House to find out who they were. It refused to give me the names, and refused to meet me until it heard about the publicity generated by this debate. That is a contemptuous way in which to treat the public.

There are two messages for people in all this. First, they should know how Lidl is behaving in this case. Secondly, the Campaign for Real Ale is actively promoting its “List your Local” campaign, and my message to anyone with a pub owned by Enterprise Inns in their community is that they should get it listed as an asset of community value now, because they cannot trust Enterprise Inns not to sell it from under them without telling them. That is an unsatisfactory state of affairs. As things are, a demolition application has now been submitted and will have to be considered by Bromley council. I am happy that it will take whatever steps are appropriate, but this case demonstrates an attitude that is damaging for the community in that area.

This is not the only occasion on which Lidl has behaved in this way. In Warlingham, it destroyed the former Good Companions public house. It knocked it down, but it has yet to submit an application to redevelop the site. It demolished a former police station in Dartford as soon as it acquired it, and the residents of Dartford have had to live with a derelict site for the subsequent 15 months. That is predatory behaviour. It is unacceptable and unbecoming of a public company. I hope that the directors on the board of Lidl will realise the reputational damage that their conduct is doing. I say that more in hope than in expectation, but we can at least use the engine of publicity to flag up their behaviour and that of Enterprise Inns. The Minister might be aware that an application has now been submitted for the Porcupine public house to be listed as an asset of community value, and I hope that it will give it some protection in due course.

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**Clive Efford:** The hon. Gentleman is generous in giving way to me again. My constituents added their names to that application and were told that because they lived in neither the ward nor the borough, they could not have their application registered as an asset, despite the fact that it is happening in the middle of their village, as the hon. Gentleman pointed out. They are very disappointed and asked me to express their view here tonight.

**Robert Neill:** I understand that, and it is an issue that we may need to think about, particularly given that the local authority boundaries in some urban areas do not necessarily follow the community ties with an area. I hope that even though Bromley council is not statutorily obliged to do so, it will none the less be aware of the strength of feeling from across the other side of Mottingham.

The other option is to consider an article 4 direction, and I understand that an application to Bromley council for such a direction has been made. The one thing that we need to bear in mind is that there is sometimes a tendency for owners of properties that are subject to an article 4 direction to make excessive claims on compensation in an endeavour to deter local authorities from using the article 4 powers. That happened with the Baring Hall hotel in Grove park, where I understand a claim for compensation of about £1 million was initially made, but has now been significantly reduced. There is, of course, an onus on the owner who seeks compensation for article 4 actually to prove loss. I wonder whether the Minister can say more about the guidance that we can give to local authorities, so that they are not intimidated against using article 4 directions by the behaviour of large, well-funded commercial organisations.

I hope that I have now had the chance to ventilate on a subject that is hugely important to my constituents. I end by saying that the porcupine is a seemingly harmless animal until provoked. Well, the residents of Mottingham have been thoroughly and justifiably provoked by the threat to their Porcupine. I hope that this debate has given us the chance to flag up what amounts to troubling behaviour not just for residents of Mottingham, but for anyone concerned about protecting valued local pubs across the country.

9.7 pm

**The Parliamentary Under-Secretary of State for Communities and Local Government (Brandon Lewis):** I begin by congratulating my hon. Friend the Member for Bromley and Chislehurst (Robert Neill) on securing this important debate. It is important to the people of Mottingham and the Porcupine pub, but it also gives us a chance—as we have heard from the hon. Member for Leeds North West (Greg Mulholland), the chairman of the all-party parliamentary save the pub group and from the hon. Member for Eltham (Clive Efford), the member for the Dutch House—to outline some of the rules affecting pubs and their acquisition by some of the companies mentioned.

My hon. Friend the Member for Bromley and Chislehurst is aware that on 29 April, Lidl UK submitted a part 31 notification to the London borough of Bromley council of its intention to demolish the Porcupine pub. I know that my hon. Friend has expressed his concerns directly

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to the council about the implications of the notification, so that his views and those of his constituents can rightly be taken into account when the council considers the case, which it has to do before 28 May. I also know that local residents recently submitted, as my hon. Friend has said, a request to the council for an article 4 direction for the removal of permitted development rights for both demolition and change of use on the site, which I am advised is

still being considered by the council. The council will need to notify the Secretary of State if and when a direction has been drafted.

As my hon. Friend has outlined, the Porcupine pub ceased trading in March and the site was sold to Lidl UK at around the same time. It is still the case that no formal planning application has been submitted to the council regarding the proposals. I know that my hon. Friend knows from his time in the Department for Communities and Local Government that it would be inappropriate for me to comment on the merits or otherwise of the notification or the proposed article 4 direction, or indeed on the possible success or otherwise of any planning application for the erection of a retail unit on the site, as I would not wish to prejudice the Secretary of State's position, should any of these matters come before him. I nevertheless note one of my hon. Friend's closing comments about the value of guidelines for councils' use of article 4 directions, which might provide councillors with greater knowledge.

When I visited the Porcupine with my hon. Friend, councillors asked me about the article 4 direction and about the compensation issue. I think that we need to look into just how guarded council officers are being about the advice that they are giving members about the risk of compensation. We need to ensure that there is a proper understanding of the risk and that it is not overstated, so that councils do not overestimate it and fail to take an opportunity that could be used in many cases to protect pubs under article 4.

I know that my hon. Friend is well versed in the planning system, to which he has referred in detail this evening. However, for the record, I will explain the position relating to, in particular, part 31 notifications and article 4.

The demolition of most buildings is permitted development, which means that specific planning permission is not required. However, that is subject to a requirement to notify the local planning authority concerned through a part 31 notification, so it can decide whether to prescribe the method of demolition and restoration of the site. That often gives a community a brief opportunity to become aware of an issue and do something about it, as has happened in the case of the Porcupine.

As for article 4 directions under the Town and Country Planning (General Permitted Development) Order 1995, public houses and shops are classed as separate uses under the Town and Country Planning (Use Classes) Order 1987. That recognises the different land use impacts of their particular uses, and would ordinarily mean that planning permission would be required to change from one class to another. When issues arise, however, local authorities, working with their communities, can restrict the use of permitted development rights by means of an article 4 direction, and, as my hon. Friend said, that is being considered in this case.

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As soon as the direction has been drafted, notice is served locally for 21 days, and the Secretary of State is notified at the same time. Having considered the local consultation responses, the local authority then considers whether to confirm the direction. It can do that by serving a further notice locally and notifying the Secretary of State.

There have been calls in the House recently for the removal of permitted development rights that allow pubs to convert to other uses at a national level. The hon. Member for Leeds North

West, representing the save the pub group, has spoken about that on a number of occasions. However, the Government are clear about the fact that localism should be at the heart of planning. We need to avoid any disproportionate restrictions on change of use that might result in more empty buildings, spoiling the local environment and holding back economic development. However, that does not prevent us from doing what we can to protect our community pubs.

As my hon. Friend said, we should encourage communities to ensure that their locals are listed as community assets. CAMRA is running a fantastic campaign, and I urge Members to look at its website, which gives clear and simple directions about how to list a pub. It is good to hear that the people of Mottingham are adopting that route while there is still a building to protect. I sensed the public feeling there the other day, when at least 200 of them turned out. Listing a pub is a simple process. It is necessary to be on the electoral roll, but I noted my hon. Friend's comments on that requirement, and I will look into it. Only 21 people in the area need to propose the listing, and I encourage people to do it.

**Greg Mulholland:** Will the Minister give way?

**Brandon Lewis:** I will give way briefly.

**Greg Mulholland:** I thank the Minister for listening to what has been said about this issue. However, he is now a CAMRA member—I am delighted about that—and he knows that CAMRA does not agree with him and believes that we need more protection. It is great that he visited the pub, but, having heard the case, does he honestly think that it is in the interests of localism or pubs to retain a national planning framework that allows the conversion of wanted, full, busy, profitable pubs to branches of McDonald's, supermarkets or flats without the community's having a say? That is not in the interests of localism. It is undermining what the Minister and I both believe in.

**Brandon Lewis:** I was about to say something about that. There is sometimes a gap when a company buys a property that was not already listed and does not need to demolish it. The first a resident may know about it is when the boarding goes up advertising whichever company that happens to be. That may be the first indication that Enterprise Inns, or whoever, has sold it off.

As I have said, we do not intend to change planning laws per se, but we do need to ensure that whatever we do is proportionate. The listing of a community asset is a simple, light-touch, but effective way of protecting a pub. However, I accept that there may be an opportunity to take that a step further in order to prevent circumstances in which a resident does not know that a property has been sold or has become a Tesco, a Lidl or a McDonald's until the store opens or the boarding goes up. I am prepared to look at that, but I must make it clear that,

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as I have outlined, we are not going to make any substantive changes to change of use and general planning that are disproportionate.

I want to stress again that communities that value their pubs should do what they can to have them listed. The Government have done a great deal to help to protect pubs through our work

on planning, under the national planning framework, and through providing the ability to list a pub as a community asset. That has had a great impact. We have also helped to protect pubs by developing the Plunkett Foundation so our communities can buy pubs, and we have put funding into Pub is the Hub. There is also the Chancellor's fantastic move to cut the beer duty escalator and beer duty itself.

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In conclusion, I am not in a position to comment on the specific case of the Porcupine pub, although I congratulate my hon. Friend the Member for Bromley and Chislehurst on the fantastic work he is doing in highlighting what is happening and on the action he has taken. I cannot go any further at present without being prejudicial to the Secretary of State's quasi-judicial role in the planning system, so I will leave it there, and wish my hon. Friend and the residents of Mottingham well in their endeavours.

*Question put and agreed to.*

**9.15 pm**

*House adjourned.*